

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN LEONARD WILBUR,

Plaintiff,

vs.

THE NATIONAL FOOTBALL  
LEAGUE, et al.

Defendants.

NO. 2:13-cv-04457-AB  
MDL-2323

MEMORANDUM IN SUPPORT OF  
MOTION

**MEMORANDUM IN SUPPORT OF MOTION**

Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, a pleading may be amended by leave of court. Rule 15 (a)(2) states: “The court should freely give leave when justice so requires.” Recognizing that the entire spirit of the rules favor controversies to be decided on the merits, the courts have not been hesitant to allow amendments for the purpose of presenting the real issues of the case where the party has not been guilty of bad faith, is not acting for purposes of delay and the opposing party will not be unduly prejudiced or the trial of the issues unduly delayed. 3 Moore's Federal Practice, Section 15.08, p. 828.

For purposes of judicial economy and efficiency, Plaintiffs seek to amend the instant Complaint by leave of court rather than by agreement of the parties.

Accordingly, Plaintiffs seek to amend the existing Complaint to reflect the death of Plaintiff JOHN LEONARD WILBUR, on December 9, 2013, and substitute in Plaintiffs DIONE ELIZABETH SMITH, decedent's daughter, Individually and as Personal Representative of the Estate of JOHN LEONARD WILBUR; decedent's daughter, LINDSEY K. WILBUR, and decedent's son, NATHAN HALSEY WILBUR, pursuant to Rule 25(a) of the Federal Rules of Civil Procedure. (See Exhibit 1 attached hereto and incorporated herein by reference proposed First Amended Complaint in NO. 2:13-cv-04457-AB and MDL-2323.)

DATED: Honolulu, Hawai'i, December 4, 2015.

/s/ Clarisse M. Kobashigawa  
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